

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

In re:

Wahid M. Azimi

Bankruptcy Case No. 18-10499

Chapter: 11

HSBC Bank USA, National Association, as
trustee for Deutsche Alt-A Securities Inc.
Mortgage Loan Trust, Mortgage Pass-Through
Certificates Series 2006-AR5,

Secured Creditor

v.

Wahid M. Azimi,

Debtor

OBJECTION TO DISCLOSURE
STATEMENT

COMES NOW, HSBC Bank USA, National Association, as trustee for Deutsche Alt-A Securities Inc. Mortgage Loan Trust, Mortgage Pass-Through Certificates Series 2006-AR5, (“Secured Creditor” or, “HSBC Bank USA”), by Counsel, and for its Objection to the Debtor’s disclosure statement [D.E. 53], respectfully states as follows:

FACTS

1. HSBC Bank USA is the sole Class 2 secured creditor named in the Debtor’s disclosure statement.
2. HSBC Bank USA is a secured creditor of the Debtor based upon a Note dated June 23, 2006 in the original principal amount of \$200,000.00 which Note is secured by a Deed of Trust even date on the property located at 4124 Glendale Road, Prince William, VA 22193.
3. The parties to this loan modified the secured debt by agreement on March 30, 2017. This agreement set forth a “New Principal Balance” in the amount of \$222,207.44; and

\$43,332.21 of that amount is deferred and not interest bearing. The new maturity date set for repayment of the note is July 1, 2022.

4. HSBC Bank USA filed Proof of Claim [11-1] on or about May 16, 2018 which stated a total secured amount of \$217,409.39 and identified prepetition arrears in the amount of \$703.84.

OBJECTIONS

5. The Debtor's disclosure statement does not provide "adequate information" to allow HSBC Bank USA to determine with sufficient detail the treatment of its secured claim in the Debtor's Plan. *See*, 11 U.S.C. §1125(a).
6. 11 U.S.C. §1125(a)(1) requires that a disclosure statement contain "adequate information" of a kind that would enable a "reasonable investor," i.e., typical of the holder of a claim in the relevant class "to make an informed judgment about the plan." The determination on the adequacy of the information disclosed in this disclosure statement is (1) "largely within the discretion of the bankruptcy court[.]" and (2) "made on a case by case basis." *Menard-Sanford v. Mabey (In re A.H. Robbins Co.)*, 880 F.2d 694, 696 (4th Cir. 1989).
7. A Disclosure statement that provides adequate information eschews selectivity, and "disclose[s] fully and precisely all information a creditor would want before voting on the plan[;]" not to mention the "reasonable investor" contemplated by 11 U.S.C. §1125(a)(1). *See, Westland Oil Dev. Corp v. MCorp Mgmt. Solutions, Inc.*, 157 B.R. 100 (S.D. Tex. 1993).
8. HSBC Bank USA objects to the Debtor's disclosure statement [D.E. 53] on the following grounds:

- a. The disclosure statement does not accurately identify the amount of HSBC Bank USA's secured claim as listed in proof of claim [11-1]; the disclosure statement lists a contrary amount of \$171,050.80. Proof of claim [11-1] remains un-objected to; and HSBC Bank USA is entitled to the full amount of its secured claim unless and until it is modified through agreement, or cramdown.
- b. HSBC Bank USA does not consent to the modification proposed by the debtor. The secured claim of HSBC Bank USA is currently slated to be modified nonconsensually by reamortizing the secured claim over forty years (40), at a fixed 4.21% rate of interest, with a balloon of any remaining balance due ten (10) years from the effective date of the plan.
 - i. The current market rate of interest is used to determine the present value of the allowed claim, and this determination will be made on a case-to-case basis. *Ibid.* citing, *In re Century Inv. Fund VII Ltd. Partnership*, 96 B.R. 884, 889 (E.D. Wisc. 1989). That based upon the Wall Street Journal's daily index the current prime market rate for a thirty year (30) fixed rate mortgage is 4.48%. See, http://www.wsj.com/mdc/public/page/mdc_bonds.html, last visited January 17, 2019 at 10:44 AM EST.

WHEREFORE, Secured Creditor prays that this Court DENY the Debtor's disclosure statement unless and until all of HSBC Bank USA, National Association, as trustee for Deutsche Alt-A Securities Inc. Mortgage Loan Trust, Mortgage Pass-Through Certificates Series 2006-AR5's objections are resolved.

Shapiro and Brown, LLP

Dated: 01/29/19

Counsel for:

HSBC Bank USA, National
Association, as trustee for
Deutsche Alt-A Securities Inc.
Mortgage Loan Trust, Mortgage
Pass-Through Certificates Series
2006-AR5

By: /s/ Malcolm B. Savage, III

Malcolm B. Savage, III
Virginia State Bar# 91050

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CERTIFICATE OF SERVICE

I certify that I have this 29th day of January, 2019, either electronically transmitted and/or mailed by United States first class mail, postage pre-paid or hand-delivered a true copy of the foregoing Objection to Disclosure Statement to the following:

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U.S. Trustee

By: /s/ Malcolm B. Savage, III

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